

## **Part 2**

### **Federal Funds Review and Approval**

#### **63J-5-201 Legislative Appropriation Subcommittees to review certain federal funds reauthorizations -- Executive Appropriations review -- Legislative approval.**

- (1) The Governor's Office of Management and Budget shall annually prepare and submit a federal funds request summary for each agency to the Legislative Fiscal Analyst at the same time the governor submits the confidential draft budget under Section 63J-1-201.
- (2)
  - (a) The Legislative Fiscal Analyst, as directed by the Executive Appropriations Committee, may include federal funds in the base budget appropriations act or acts, when those acts are prepared as provided in JR3-2-402.
  - (b) The Legislative Fiscal Analyst shall submit a federal funds request summary for each agency to the legislative appropriations subcommittee responsible for that agency's budget for review during each annual general session.
- (3) Each legislative appropriations subcommittee shall review the federal funds request summary and may:
  - (a) recommend that the agency accept the federal funds or participate in the federal program for the fiscal year under consideration; or
  - (b) recommend that the agency not accept the federal funds or not participate in the federal program for the fiscal year under consideration.
- (4) The Legislative Executive Appropriations Committee shall:
  - (a) review each subcommittee's recommendation;
  - (b) determine whether or not the agency should be authorized to accept the federal funds or participate in the federal program; and
  - (c) direct the Legislative Fiscal Analyst to include or exclude those federal funds and federal programs in an annual appropriations act for approval by the Legislature.
- (5) Legislative approval of an appropriations act containing federal funds constitutes legislative approval of the federal grants or awards associated with the federal funds for the purposes of compliance with the requirements of this chapter.

Amended by Chapter 310, 2013 General Session

#### **63J-5-202 Governor to approve certain new federal funds requests.**

- (1)
  - (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, an executive branch agency shall submit a federal funds request summary to the governor or the governor's designee for approval or rejection when:
    - (i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;
    - (ii) receipt of the new federal funds will require no additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and
    - (iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

- (b) The Governor's Office of Management and Budget shall report each new federal funds request that is approved by the governor or the governor's designee and each new federal funds request granted by the federal government to:
  - (i) the Legislature's Executive Appropriations Committee;
  - (ii) the Office of the Legislative Fiscal Analyst; and
  - (iii) the Office of Legislative Research and General Counsel.
- (2) The governor or the governor's designee shall approve or reject each new federal funds request submitted under the authority of this section.
- (3)
  - (a) If the governor or the governor's designee approves the new federal funds request, the executive branch agency may accept the new federal funds or participate in the new federal program.
  - (b) If the governor or the governor's designee rejects the new federal funds request, the executive branch agency may not accept the new federal funds or participate in the new federal program.
- (4) If an executive branch agency fails to obtain the governor's or the governor's designee's approval under this section, the governor may require the agency to:
  - (a) withdraw the new federal funds request;
  - (b) return the federal funds;
  - (c) withdraw from the federal program; or
  - (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
- (5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in a federal funds request summary submitted to the Governor's Office of Management and Budget under this section, the agency shall submit to the Governor's Office of Management and Budget the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

Amended by Chapter 272, 2016 General Session

**63J-5-203 Judicial council to approve certain new federal funds requests.**

- (1)
  - (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, a judicial branch agency shall submit a federal funds request summary to the Judicial Council for its approval or rejection when:
    - (i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;
    - (ii) receipt of the new federal funds will require no additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and
    - (iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.
  - (b) The Judicial Council shall report each new federal funds request that is approved by it and each new federal funds request granted by the federal government to:
    - (i) the Legislature's Executive Appropriations Committee;
    - (ii) the Office of the Legislative Fiscal Analyst; and
    - (iii) the Office of Legislative Research and General Counsel.

- (2) The Judicial Council shall approve or reject each new federal funds request submitted to it under the authority of this section.
- (3)
  - (a) If the Judicial Council approves the new federal funds request, the judicial branch agency may accept the new federal funds or participate in the new federal program.
  - (b) If the Judicial Council rejects the new federal funds request, the judicial branch agency may not accept the new federal funds or participate in the new federal program.
- (4) If a judicial branch agency fails to obtain the Judicial Council's approval under this section, the Judicial Council may require the agency to:
  - (a) withdraw the new federal funds request;
  - (b) return the federal funds;
  - (c) withdraw from the federal program; or
  - (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
- (5) If a letter or other official documentation awarding a judicial branch agency a grant of federal funds is not available to be included in a federal funds request summary submitted to the Judicial Council under this section, the judicial branch agency shall submit to the Judicial Council the letter or other official documentation awarding the judicial branch agency a grant of federal funds before expending the federal funds granted.

Amended by Chapter 272, 2016 General Session

**63J-5-203.5 State Board of Education to approve certain new federal funds requests.**

- (1)
  - (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, the State Board of Education shall review a federal funds request summary of the State Board of Education when:
    - (i) the state will receive total payments of \$1,000,000 or less per year if the new federal funds request is approved;
    - (ii) receipt of the new federal funds will require no additional permanent full-time employees, additional permanent part-time employees, or a combination of additional permanent full-time employees and permanent part-time employees; and
    - (iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.
  - (b) The State Board of Education shall approve or reject each new federal funds request reviewed under this section.
- (2) The State Board of Education shall report each new federal funds request that is approved by the board and each new federal funds request granted to the board by the federal government to:
  - (a) the Legislature's Executive Appropriations Committee;
  - (b) the Office of the Legislative Fiscal Analyst; and
  - (c) the Office of Legislative Research and General Counsel.
- (3) If a letter or other official documentation awarding the State Board of Education a grant of federal funds is not available to be included in the federal funds request summary submitted under this section, the letter or other official documentation awarding the State Board of Education a grant of federal funds shall be submitted to the State Board of Education before expending the federal funds granted.

Enacted by Chapter 272, 2016 General Session

**63J-5-204 Legislative review and approval of certain federal funds requests.**

(1) As used in this section:

- (a) "High impact federal funds request" means a new federal funds request that will or could:
  - (i) result in the state receiving total payments of \$10,000,000 or more per year from the federal government;
  - (ii) require the state to add 11 or more permanent full-time employees, 11 or more permanent part-time employees, or combination of permanent full-time and permanent part-time employees equal to 11 or more in order to receive the new federal funds or participate in the new federal program; or
  - (iii) require the state to expend more than \$1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.
- (b) "Medium impact federal funds request" means a new federal funds request that will or could:
  - (i) result in the state receiving total payments of more than \$1,000,000 but less than \$10,000,000 per year from the federal government;
  - (ii) require the state to add more than zero but less than 11 permanent full-time employees, more than zero but less than 11 permanent part-time employees, or a combination of permanent full-time employees and permanent part-time employees equal to more than zero but less than 11 in order to receive or administer the new federal funds or participate in the new federal program; or
  - (iii) require the state to expend \$1 to \$1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(2)

- (a)
  - (i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a medium impact federal funds request that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:
    - (A) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and
    - (B) if the governor, the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations.
  - (ii) The procedures required under Subsection (2)(a)(i) shall be performed, if possible, before the date that the medium impact funds request is formally submitted, but not later than three months after the date of formal submission.
- (b) The Legislative Executive Appropriations Committee shall review the federal funds request summary and may:
  - (i) recommend that the agency accept the new federal funds;
  - (ii) recommend that the agency not accept the new federal funds; or
  - (iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the acceptance of the new federal funds.

(3)

(a)

- (i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a high impact federal funds request that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:
  - (A) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and
  - (B) if the governor, the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislature for its approval or rejection in an annual general session or a special session.
- (ii) The procedures required under Subsection (3)(a)(i) shall be performed, if possible, before the date that the high impact funds request is formally submitted, but not later than three months after the date of formal submission.
- (b)
  - (i) If the Legislature approves the new federal funds request, the agency may accept the new federal funds or participate in the new federal program.
  - (ii) If the Legislature fails to approve the new federal funds request, the agency may not accept the new federal funds or participate in the new federal program.
- (4) If an agency fails to comply with the procedures of this section or fails to obtain the Legislature's approval:
  - (a) the governor, the Judicial Council, or the State Board of Education, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;
  - (b) the Legislature may, if federal law allows, opt out or decline to participate in the new federal program or decline to receive the new federal funds; or
  - (c) the Legislature may reduce the agency's General Fund appropriation in an amount less than, equal to, or greater than the amount of federal funds received by the agency.
- (5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in the agency's federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, under this section, the agency shall submit to the governor, the Judicial Council, or the State Board of Education, as appropriate, the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

Amended by Chapter 272, 2016 General Session

**63J-5-205 Federal funds awards that exceed approved appropriations.**

Each agency that receives federal funds greater than the amount approved through the process provided for in this chapter may, using those excess funds, expend up to 25% in excess of the of the amount approved if:

- (1) receipt or use of the excess federal funds will not require the addition of one or more permanent full-time employees or permanent part-time employees;
- (2) no new state money will be required to match the excess federal funds; and
- (3) receipt or use of the excess federal funds will not require the state to comply with new requirements or conditions in order to receive the federal funds or to participate in the federal program.

Enacted by Chapter 326, 2011 General Session